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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 NETFLIX, INC.,
14 Plaintiff,

15 v.

16 CA, INC. and AVAGO TECHNOLOGIES
17 INTERNATIONAL SALES PTE. LIMITED,
18 Defendants.

Case No. 3:21-cv-03649-EMC
(*case to be considered for relation*)

Case No. 3:20-cv-04677-JD
(*related case*)

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES ARE
RELATED PURSUANT TO CIVIL
LOCAL RULE 3-12**

Judge: Hon. James Donato

20 BROADCOM CORPORATION and AVAGO
21 TECHNOLOGIES INTERNATIONAL
SALES PTE. LIMITED,

22 Plaintiffs,

23 v.

24 NETFLIX, INC.,
25 Defendants.

I. INTRODUCTION

This Court is currently presiding over another patent infringement case involving the same parties and technology at issue in the instant action. In that proceeding, Avago Technologies International Sales Pte. Limited and Broadcom Corporation (collectively, “Broadcom”¹) accused Netflix, Inc. (“Netflix”) of infringing several patents, particularly with respect to Netflix’s adaptive streaming platform and on-demand internet content delivery network. *See Broadcom Corp. et al v. Netflix, Inc.* (No. 3:20-cv-04677-JD) (the “*Broadcom Corp. Action*”). This Court has held a case management conference and heard a motion to dismiss for lack of patent eligibility under § 101, thereby becoming familiar with some of the asserted patents and relevant technology.

Nearly a year after commencing the *Broadcom Action*, Avago Technologies International Sales Pte. Limited and CA, Inc. (another subsidiary of Broadcom Inc.) filed another action against Netflix in the Eastern District of Texas, charging the same Netflix technology accused in the *Broadcom Action* of infringing an additional five patents. *See CA, Inc. et al v. Netflix, Inc.* (No. 2:21-cv-80) (the “*Second Action*”). In the instant suit (the “*Netflix Action*”), Netflix seeks a declaration of non-infringement of the patents asserted in the *Second Action*. Although the *Netflix Action* is also related to the *Second Action* under Patent Local Rule 2-1(a), venue is improper in the Eastern District of Texas.

To avoid wasting judicial resources and to reduce the possibility of inconsistent rulings, Netflix hereby moves, under Civil Local Rule 3-12, for consideration of whether the *Netflix Action* should be related to the *Broadcom Action* that involves the same parties and technology.

II. ARGUMENT

Civil Local Rule 3-12(a) provides that cases are “related” when: (1) “[t]he actions concern substantially the same parties, property, transaction or event”; and (2) “[i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Here, both criteria are satisfied.

¹On information and belief, Avago Technologies International Sales Pte. Limited and Broadcom Corporation are both subsidiaries of the same parent company, Broadcom Inc.

1 First, the actions involve the same parties and same technology. On information and
 2 belief, the parties that asserted the patents in the *Broadcom* Action are Broadcom’s corporate
 3 affiliates or successors. The assignment of the patents from one corporate affiliate to another
 4 should not defeat the benefits of relation here. And, significantly, Netflix is a party to both
 5 actions, which further supports case relation. Moreover, even if the actions involve different
 6 patents, they concern substantially the same technology. *See Advanced Semiconductor Materials*
 7 *America, Inc. v. Applied Materials, Inc.*, 1993 WL 653027 at *2 (D. Ariz. 1993) (finding the
 8 present case related to two other patent cases between the same two parties pending before the
 9 Northern District of California because “while the dispute in this case does involve different
 10 patents from those at issue in the two cases now pending between the parties in California, all
 11 three lawsuits involve the same parties, the same technology, and competing products in the same
 12 relevant markets”). In particular, both actions relate to allegations of infringement by the same
 13 components of Netflix’s streaming technology, including Netflix’s content delivery network,
 14 playback process, adaptive streaming, and the Titus Container Management Platform of
 15 infringement. *Compare Broadcom* Action, Dkt. No. 52, ¶¶ 37-56, 72-90, 111-125, 150-157, 174-
 16 183, 194-203, 303-316, 337-351 & 372-391 *with Second* Action, Dkt. No. 1, ¶¶ 40-51, 61-72, 81-
 17 86 & 95-105.

18 Second, relating the cases will minimize the risk of “an unduly burdensome duplication of
 19 labor and expense or conflicting results if the cases are conducted before different Judges.” Loc.
 20 R. 3-12(a). This Court has previously considered and continues to assess the technology of the
 21 patents asserted in the *Broadcom* Action. Like the patents this Court is already considering, the
 22 patents at issue in the *Netflix* Action relate to networking and/or video streaming. *Compare, e.g.,*
 23 *Netflix* Action, Dkt. No. 1, ¶¶ 26-30 & 36-50 *with Broadcom* Action, Dkt. No. 52, ¶¶ 25-60,
 24 94-129, & 130-161.

25 And Broadcom accuses the same Netflix functionality of infringement in both actions.
 26 The Court has considered the eligibility of four of the asserted patents in the *Broadcom* Action,
 27 which are similar to the patents at issue in this action. If this case is heard by another judge in the
 28 district, it would necessarily lead to inefficiencies.

1 **III. CONCLUSION**

2 Netflix respectfully requests that the Court order the actions related.

3
4 Dated: May 21, 2021

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